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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,035	03/29/2001	Arnon Amir	ARC920010062US1	8368

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EXAMINER	
DETWILER, BRIAN J	
ART UNIT	**PAPER NUMBER**
2173	

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/822,035	AMIR ET AL.	
	Examiner	Art Unit	
	Brian J. Detwiler	2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 June 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-41 and 45-56* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21,23-36,38-41,51,52,54 and 55* is/are rejected.

7)☒ Claim(s) *22,37,45-50,53 and 56* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-16, 18-21, 23-36, 38-41, 51, 52, 54, and 55 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by US Patent Publication 2002/0133247A1 (Smith et al).

Referring to claims 1, 27, 51, and 54, Smith discloses in paragraphs 11-13 accessing a first media stream, allowing the first media stream to play up to some point, and switching to a second media stream different from the first media stream. Smith further discloses in paragraphs 37 and 38 that the second media stream is accessed via media stream selectors, which can be icons or other elements that link to the network address of additional media streams. Finally, Smith discloses in paragraph 50 that the point at which the second media stream begins can correspond to the point at which the first media stream ends.

Referring to claims 2 and 28, Smith discloses in paragraph 39 that the two media streams could be different camera angles at a sporting event. Said second media stream would then have media content in common with said first media stream.

Referring to claims 3-6 and 29-31, Smith explains that media streams include but are not limited to video, audio, graphics and text.

Referring to claim 7, the user's selection of the media stream selectors in the graphical user interface illustrated in Figure 2 can inherently be performed by clicking a mouse or depressing a key on a keyboard.

Referring to claims 8 and 41, Smith discloses in paragraph 39 that the two media streams could be different camera angles at a sporting event. The examiner submits that all points in the second media stream correspond in some way to the first media stream. Accordingly, the second point is selected from one of a plurality of points corresponding to the first media stream.

Referring to claims 9, 32, 52, and 55, Smith discloses in paragraph 39 that the two media streams could be different camera angles at a sporting event. The point at which the second media stream begins would then correspond in the chronological sense to the point at which the first media stream ends.

Referring to claims 10-16, 18, 26, and 33-36, Smith generally explains in paragraph 22 that audio, video, graphics, and text can be delivered via media streaming. Smith further lists Internet radio, video clips from news and movies, and animated or graphic presentations as more specific types of streaming media content. Skim video, full video, sped-up audio, closed caption text, moving storyboard with fast or slow audio, audio and video, low bandwidth video, and multiple tracks are thus all anticipated by Smith as mere variations on streams comprising audio, video, graphics, and/or text.

Referring to claim 19, Smith discloses in paragraph 50 using an index in either the first or second media stream. Said index identifies a particular point in time and must be accessed via some sort of look-up table.

Referring to claim 20, mathematical formulas are fundamental to all processes performed by a computing device. Accordingly, at least one mathematical formula is used to calculate the starting point in the second media stream.

Referring to claim 21, Smith discloses in paragraph 50 that using an index into either of the media streams allows synchronization of the switching from the first to the second. Accordingly, indexing data streamed with the first media stream could be used to compute the start point of the second media stream.

Referring to claims 23 and 38, Smith discloses in paragraph 50 that using an index into either of the media streams allows synchronization of the switching from the first to the second. Therefore, the synchronization mismatch should be zero, which is less than about 3 seconds.

Referring to claims 24, 25, 39, and 40, Smith explains in paragraph 50 that an index in a media stream identifies a particular point in time. Said point in time can thus be any point in the media stream, whether it be the beginning of a shot, video scene, or sentence.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication 2002/0133247A1 (Smith et al) as applied to claim 9 above and further in view of U.S. Patent No. 5,732,217 (Emura).

Referring to claim 17, Smith fails to disclose that a user can control the rate at which a video is streamed out. Emura, however, discloses a system in column 2: lines 20-48 that takes as user input a specific playback speed and then streams the corresponding media selection at that speed. Emura explains in column 1: lines 19-36 that this is particularly useful in conjunction with video-on-demand. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a control with which a user can control the rate at which a video is streamed out as taught by Emura in combination with the stream switching teachings of Smith so that video-on-demand services could truly be "on-demand" as suggested by Emura.

Allowable Subject Matter

Claims 22, 37, 45-50, 53, and 56 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: In combination with the claimed subject matter, the prior art does not teach or fairly suggest compensating for user response time or time compressing content in the first media stream to reduce the time a user spends searching for media content. The closest prior art, US Patent

Publication 2002/0133247A1 (Smith et al), teaches switching from a first media stream to a corresponding point in a second media stream.

Response to Arguments

The affidavit filed on 15 June 2004 under 37 CFR 1.131 has been considered but is ineffective to overcome the Smith reference.

The evidence submitted is insufficient to establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the effective date of the Smith reference. Reduction to practice can be exhibited by either filing an application for patent or by completing the invention in an operative form and by showing practical utility in the intended field of use. In the instant case, the application for patent was filed after the effective date of the Smith reference. Accordingly, reduction to practice must be shown by completing the invention in an operative form. On page 3 of the affidavit Applicant refers to Section 4 of Exhibit 1, which details software titled CueVideo. Applicant asserts that the CueVideo software successfully demonstrates a reduction to practice of the claimed invention. Section 4 of Exhibit 1, however, specifically states in reference to the inventors and the CueVideo project that, "We *are working on* different applications that deploy this technology using a web infrastructure..." (emphasis added). This statement implies that the CueVideo software is under development and is therefore not a completed invention in an operative form. The remainder of Exhibit 1 also fails to provide specific facts that the claimed invention was reduced to practice prior to the effective date of the Smith reference.

Applicant's arguments filed 15 June 2004 have been fully considered but they are not fully persuasive.

Regarding claims 10, 12, 15, and 33, Applicant states that Smith is not directed to any one of skim video, sped-up audio, or moving storyboards. The examiner respectfully disagrees. Smith discloses that audio, video, graphics, and text can be provided via media streams. Smith further points to Internet radio, video clips from news and movies, and animated or graphic representations as types of streaming media. Because skim video is a type of video, sped-up audio is a type of audio, and a moving storyboard is a type of graphic representation, Smith's invention will accommodate all of the claimed media types.

Regarding claim 20, Applicant asserts that Smith fails to disclose using mathematical formula to determine a starting point in a media stream. The examiner respectfully disagrees. In the most basic sense, computers use simple mathematical formulas to compute any calculated result. Accordingly, Smith's invention must inherently use some mathematical formula to determine the starting point within a media stream.

Regarding claims 22 and 37, Applicant's arguments are persuasive and the corresponding claims are now objected to as being dependent upon rejected base claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Detwiler whose telephone number is 571-272-4049. The examiner can normally be reached on Mon-Thu 8-5:30 and alternating Fridays 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Cabeca can be reached on 571-272-4048. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bjd

RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2173